

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----) DOCKET NO. 2008-0274
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding to)
Investigate Implementing a)
Decoupling Mechanism for Hawaiian)
Electric Company, Inc., Hawaii)
Electric Light Company, Inc., and)
Maui Electric Company, Limited.)
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THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM'S
COMMENTS ON PROPOSED FINAL DECISION AND ORDER
AND

CERTIFICATE OF SERVICE

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**THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM'S
COMMENTS ON PROPOSED FINAL DECISION AND ORDER**

The Department of Business, Economic Development, and Tourism ("DBEDT"), by and through its Director ("Director") in his capacity as the Energy Resources Coordinator ("ERC"), and through the Hawaii State Energy Office, hereby submits to the Hawaii Public Utilities Commission ("Commission" or "PUC") its comments on the Proposed Final Decision and Order filed by Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Ltd., (collectively, the "HECO Companies"), and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs ("CA") pursuant to PUC Order issued on February 19, 2010 in the above captioned

docket. DBEDT's comments are filed pursuant to the Hawaii Administrative Rules ("HAR") § 6-61-120(a).

Background

Decoupling mechanism is viewed as a critical regulatory transformation in helping achieve Hawaii's clean energy goals. The State's support for implementing a decoupling mechanism for the HECO Companies' service territories is to remove the barriers to the utilities to aggressively pursue and promote demand-side programs and renewable energy resources in the utility generation portfolio to help reduce Hawaii's dependence on imported fossil fuels by 70% within the next 20 years.

By Order issued on February 19, 2010, the Commission approved the Final Statement of Position of the HECO Companies and the CA (HECO/CA JSOP) as amended in subsequent filings by these two parties, and "subject to the commission's issuance of a Final Decision and Order in this matter." The Commission Order then instructed the HECO Companies and the CA "to jointly prepare and file a Proposed Final Decision and Order with findings of fact..." no later than 30 days from date of Order, for the Commission's review and approval.

On March 23, 2010, the HECO Companies and the CA filed their Proposed Final Decision and Order ("HECO/CA Proposed D&O) pursuant to the Commission's February 19, 2010 Order. DBEDT

submits the following brief comments on the HECO/CA Proposed D&O.

DBEDT's COMMENTS

1. The implementation of a decoupling mechanism for the HECO Companies is the first regulatory transformation ever approved in Hawaii. It is an unprecedented change in Hawaii's ratemaking framework that will have a significant and positive impact on the utilities' financial security and which in turn, will have major rate impact on ratepayers on an automatic and periodic basis. The PUC's approval of a decoupling mechanism for the HECO Companies is a significant milestone which DBEDT hopes will help align the HECO Companies' financial interest with helping achieve the State's energy goals for the benefit of Hawaii's people. Given the transformative significance of this initiative, DBEDT finds the Commission's Order approving the HECO/CA Joint Statement of Position (JSOP), without including the "findings of fact" in its Order and instead instructing the HECO Companies and the CA to undertake the task of writing the "findings of fact" for "commission's review and approval", somewhat disconcerting.
2. The HECO/CA Proposed D&O does not provide balanced discussions of the issues much less a fair and objective characterization of the Parties' positions on the issues,

as to provide a reasonable basis for the "findings of fact" required for such a significant decision. Moreover, DBEDT believes that as this historic regulatory transformation directly impacts the HECO Companies' financial well-being, it is not possible for the companies to provide balanced and unbiased "findings of fact".

3. DBEDT's read of the HECO/CA Proposed D&O is that it sounds no more different than the HECO Companies' briefs. It is excessively favorable to the HECO position, providing a full (and repetitive) discussion of HECO's positions on every issue while citing only selected position statements from the other Parties - those which either appear favorable or support the utilities' position. For instance, in regards to the energy cost adjustment (ECAC) issue, which is one of the major issues in the docket, the HECO/CA Proposed Final D&O devoted 14 pages to this discussion beginning on page 93. Almost 12 pages of these 14 pages are devoted to elaborating the utilities' position or offering responses or rebuttals to the other Parties' positions. DBEDT observes that the HECO/CA Proposed D&O minimizes the other Parties positions on this specific issue as well as on the other equally important issue of linking decoupling to a target performance goal based on

the amount of renewable generation integrated in the system.

4. DBEDT notes that the ECAC issue is not part of the decoupling mechanism per se, but it was raised as an issue by the other Parties, including DBEDT, because it affects the utilities' costs recovered under a decoupling mechanism. The issue here was whether or not to modify ECAC as simply a straight pass through fuel cost recovery mechanism. As acknowledged by the utilities, the use of a fixed heat rate in the current ECAC is a disincentive for the HECO Companies to increase renewable generation which could override the incentive effects of aggressively promoting the increased use of renewable generation. Furthermore, embedding a utility incentive in the cost recovery mechanism for fossil-based generation, as provided in the current ECAC, would continue to perpetuate the barrier to the utility to increase renewable energy in their generation portfolio, which ultimately defeats the purpose for implementing a decoupling mechanism for the HECO Companies. Additionally, this incentive mechanism built in ECAC provides 100% of the benefit to the utility who keeps all of the savings from ratepayer-financed efficiency, while passing on 100% of the financial risks to the ratepayers who pay for all the fuel cost increases.

These are important and substantive arguments on this issue that were overlooked in the HECO/CA Proposed D&O, but which should be considered in the Commission's decision and order. DBEDT suggests that the Commission reflect a balanced discussion of the Parties' positions on this issue in the Final Decision and Order to support a fair and reasonable "findings of fact" than what was provided in the HECO/CA Proposed Final D&O.

5. The HECO/CA Proposed D&O did not include any discussion on consideration of the decoupling mechanism approved by the Commission in the determination of the HECO Companies' future allowed rate of return despite the fact that there was consensus among the Parties on this matter.
6. The HECO/CA Proposed D&O lacked any substantive discussion on how decoupling mechanism, as provided in the HECO/CA JSOP, will help achieve Hawaii's energy goals to demonstrate the prudence of the Commission's approval of such mechanism, absent any requirement or expectation of performance from the utility with respect to Hawaii's energy goals. While DBEDT recognizes that the Commission's Order issued on February 19, 2010 approved the HECO/CA JSOP which does not include performance metrics, DBEDT would like to note that the discussion relating to this issue in the HECO/CA Proposed D&O does not support the prudence of


denying the inclusion of this element in the approved decoupling mechanism. The non-consensus among the Parties on this issue should not be a reason to disapprove some target performance measure for the utilities to achieve. Disapproving a performance requirement in a decoupling mechanism effectively awards the HECO Companies a guaranteed cost recovery and an automatic rate increase mechanism without corresponding consumer benefits, essentially shifting all of the risks to the ratepayers.

7. The Commission's final decision and order should include very specific provisions on reporting requirements from the utilities.
8. The HECO/CA Proposed Final D&O proposes that the decoupling mechanism (RBA and RAM) become effective February 20, 2010 when the PUC Order was issued, while the effective date of the proposed change to ECAC is proposed to become effective upon the issuance of a final decision and order for the HECO's 2009 test-year in Docket 2008-0083. DBEDT observes that the HECO/CA Proposed D&O excessively favors the HECO Companies. The Commission's final decision and order should include clear provisions on these timelines which obviously will have rate impact.
9. The Commission's final decision and order should include specific provisions on the termination of the decoupling

mechanism by the Commission at any time and for any reason it deems appropriate, than what was provided in the HECO/CA Proposed D&O. As reflected in DBEDT's position throughout the proceedings, DBEDT's support for a decoupling mechanism was not intended to give the HECO Companies a carte blanche on this very significant cost recovery method that would have significant impact on Hawaii's ratepayers.

The institution of a decoupling mechanism is a significant change in Hawaii's regulatory framework. It is DBEDT's hope that the Commission approval of this transformative mechanism be based on balanced, well-reasoned and well-founded findings of fact.

DATED: Honolulu, Hawaii, March 31, 2010.


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Certificate of Service

I hereby certify that I have served a copy of the Department of Business, Economic Development, and Tourism's Comments on the HECO/CA Proposed Final Decision and Order filed in Docket Number 2008-0274, by electronic transmission on the date of signature to each of the parties listed below.

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